

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

THE NEW YORK DISTRICT COUNCIL OF  
CARPENTERS PENSION FUND, *et al.*,

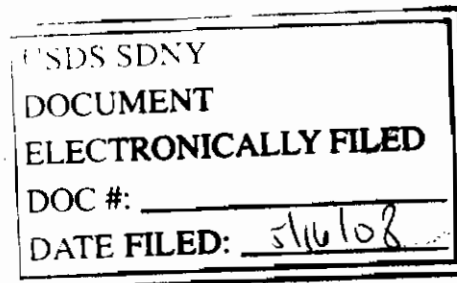
Plaintiffs,

-v-

KW CONSTRUCTION, INC., as Successor  
to KW GENERAL CONTRACTOR, INC.,  
and JOHN WHYTE, d/b/a KW  
CONSTRUCTION, INC., and JOHN  
WHYTE, individually,

Defendants.

No. 07 Civ. 8008 (RJS)  
ORDER OF ATTACHMENT



RICHARD J. SULLIVAN, District Judge:

For the reasons set forth in this Court's Memorandum and Order dated May 14, 2008, the Court grants plaintiffs' application for an order of attachment against defendants John Whyte and KW Construction Inc. ("KW Construction"), of which Whyte is the sole owner, pursuant to Rule 64 of the Federal Rules of Civil Procedure and Article 62 of the New York Civil Practice Law and Rules ("CPLR"). Specifically, plaintiffs have established, under CPLR § 6212(a), that (1) they have stated a claim for a money judgment; (2) there is a probability that they will succeed on the merits; (3) defendants "'with intent to defraud [their] creditors or frustrate the enforcement of a judgment that might be rendered in [plaintiffs'] favor, [have] assigned, disposed of, encumbered or secreted property, or removed it from the state or [are] about to do any of these acts'"; and (4) the amount demanded from defendants is greater than the amount of all counterclaims known to plaintiffs. *Bank Leumi Trust Co. of N.Y. v. Istim, Inc.*, 892 F. Supp. 478, 481 (S.D.N.Y. 1995) (C.P.L.R. § 6201(3)).

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Accordingly, the Court issues the following directives:

1. The amount to be secured by this Order of Attachment is One Million, One Hundred and Fourteen Thousand, One Hundred Eighty-Five Dollars and Eighteen Cents (\$1,114,185.18).


2. The Sheriff of Orange County, New York, the Sheriff of Westchester County, New York, and/or the United States Marshal for the Southern District of New York, or any person(s) appointed to act in his place and stead, shall levy within his jurisdiction(s) upon such funds, monies, personal or real property and/or interest in property of defendants John Whyte and KW Construction, including any debt owed to said defendants, and shall pay or deliver all such funds, monies, property and/or interest in property to the Clerk of this Court for the purpose of satisfying any judgment that may be obtained against the defendants in this action.

3. Any garnishee served with this Order shall, within ten (10) days after service of this Order, serve upon the relevant sheriff and/or the U.S. Marshal "a statement specifying all debts of the garnishee to the defendant[s], when the debts are due, all property in the possession or custody of the garnishee in which the defendant[s] ha[ve] an interest, and the amounts and value of the debts and property specified. If the garnishee has money belonging to, or is indebted to, the defendant[s] in at least the amount of the attachment, he may limit his statement to that fact." N.Y. C.P.L.R. § 6219. The garnishee shall also serve a copy of the statement upon plaintiffs' counsel.

4. Plaintiffs shall post a bond in the amount of \$50,000 as security.

SO ORDERED.

DATED: New York, New York  
May 14, 2008

  
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RICHARD J. SULLIVAN  
UNITED STATES DISTRICT JUDGE